IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Crl.M. No.21920-M of 2007

Date of Decision: 17.5.2007

Chaman

....Petitioner.

Versus

State of Haryana.

...Respondent.

Present:- Mr.Sanjay S.Chauhan ,Advocate
for the petitioner.

Mr.Narinder Sura, AAG Haryana.

Mr.Sharad Kumar Yadav, Advocate
for the complainant.

****

S.S.SARON, J.(ORAL)

This petition under Section 438 Cr.P.C. has been filed for admitting the petitioner to bail in the event of his arrest in case FIR No.22, dated 17.2.2007 registered at P.S.Badshahpur, Gurgaon for the offence under Sections 419,420,467,468,471,120-B IPC.

As per allegations in the complaint that has been lodged, it is stated Balram is owner in possession of ½ share of land measuring 16 kanals 6 marlas and Tejpal, Dojram, Parasram and Balbir are the owners of the remaining ½ share. The said land has been sold by some unknown persons by impersonating the complainants and has been purchased by Chaman (petitioner).

Learned counsel for the petitioner submits that the petitioner is a bona fide purchaser of the land, which has been purchased in pursuance of

a registered sale deed. It is submitted that the sale deed was executed on 23.6.2006 whereas the FIR has been registered on 17.2.2007. As such there is a delay of eight months in lodging the FIR for which there is no explanation. Besides, the petitioner purchased the land after paying an amount of Rs.28 lacs.

Learned counsel for the State on instructions from Tulsi Ram Ruhil SI, has submitted the land is shown to have been purchased by the petitioner for a sum of Rs.28,52,500/-. However, the unknown persons who have sold the land have still not being identified. The petitioner on the basis of the alleged sale in his favour sold the land to DLF for a sum of Rs. 1,12,06,250/-. The amount of Rs. 1,12,06,250/- was received by cheque which the petitioner deposited in his account. Out of Rs.1,12,06,250/-, he withdrew Rs.20,06,250/- and the remaining amount was withdrawn by other accused namely Sukhbir, Mukesh Chauhan and Jaivir by cheques of Rs.30 lakhs each issued by petitioner to them. It is submitted that the custody of the petitioner is required as he is the main accused in the case. Initially sale deed was executed in his favour and it is to be ascertained as to who are the persons who impersonated as the complainants and claimed themselves to be the owner of the land.

Learned counsel for the complainant has submitted that the petitioner has also filed a suit for declaration and consequential relief of injunction against the petitioner. In the said suit the address of the petitioner has been given as resident of village Khandsa, Tehsil and District Gurgaon, which is also the address given by the petitioner himself in the present petition. However, in the summons that were issued, the process serving

agency has recorded that the petitioner is resident of Village Rahi, Tehsil Noida.

Learned counsel for the State has further submitted that although pre-arrest bail has been granted to Mukesh Chauhan, he has not at all cooperated in the case and has not disclosed even the names of the persons who had sold the land in favour of the petitioner. The said persons had infact been brought by aforesaid Mukesh Chauhan. He, therefore, prays that in order to carry out effective investigation in the case, pre-arrest bail granted to Mukesh Chauhan, vide order dated 3.4.2007 by the learned Additional Sessions Judge, Gurgaon, be cancelled. He has placed on record the photocopy of the order dated 23.3.2007 whereby interim bail was granted to Mukesh Chauhan and also the order dated 3.4.2007 whereby the order was made absolute.

After giving my thoughtful consideration to the matter and keeping in view the nature of allegations, I find no ground to admit the petitioner to pre-arrest bail. Hence, his prayer for pre-arrest bail is declined. However at the same time suo-motu notice is issued to Mukesh Chauhan son of Shiv Charan resident of Banskusla, Tehsil and District Gurgaon, to show cause as to why the pre-arrest bailgranted to him in terms of Section 438 Cr.P.C. by the learned Additional Sessions Judge, Gurgaon, vide order dated 3.4.2007 be not cancelled.

Notice be issued to Mukesh Chauhan for 26.7.2007.

The office to register separate criminal miscellaneous with regard to the suo motu notice issued and list the same.

(S.S.SARON)
JUDGE

May 17,2007
Reema